

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

28417

**FILE:** B-213855**DATE:** May 31, 1984**MATTER OF:** William F. Krone - Reimbursement of Travel  
and Transportation Expenses -  
Transferred Employee**DIGEST:**

Forest Service employee in Alaska, who was entitled to travel and transportation costs to home of record as a result of completion of service agreement, transferred to the Department of the Treasury in Long Beach, California. Employee is entitled to reimbursement by the Forest Service for the costs of travel and transportation expenses to new station since he relocated before effective date of Treasury appointment. Reimbursement should be made to the extent that it does not exceed constructive costs of travel and transportation to home of record.

This decision is in response to a request from an Authorized Certifying Officer of the Department of Agriculture. The request concerns the entitlement of Mr. William F. Krone, a former employee of the Forest Service, to be reimbursed for certain travel and relocation expenses, and for Agriculture to pay these costs involved in his permanent change-of-station transfer. For the reasons stated below, we hold that he is entitled to reimbursement of such expenses, not to exceed the constructive cost of travel and transportation expenses to his place of actual residence, and that these costs should be paid by the Department of Agriculture.

**FACTS**

Mr. Krone was hired by the Forest Service, Department of Agriculture in October 1980 for a tour of duty in Alaska. At that time, the Forest Service paid Mr. Krone all of the allowable expenses due a new hire to an official duty station outside the conterminous United States. When Mr. Krone was hired he signed an agreement to remain in Government service for 24 months before he and his family would be entitled to return transportation to his

029016  
124301

home of record. He has satisfactorily completed his tour of duty having continued with the Forest Service until June 1983. On June 1, 1983, Mr. Krone was notified that he had been accepted for a position with the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury in Long Beach, California, with an effective date of June 26, 1983, for the transfer appointment. Mr. Krone was advised by the Treasury Department while he was being considered for his new position that, if selected, relocation would be at his own expense. When Mr. Krone informed the Forest Service that he was transferring to the Treasury Department, he was notified that the Forest Service could not pay any relocation expenses because he was not transferring to another Forest Service location. Mr. Krone departed Ketchikan, Alaska, on June 15, 1983, and arrived in Long Beach, California, on June 21, 1983, without benefit of a travel authorization from either the Forest Service or the Bureau of Alcohol, Tobacco, and Firearms. The record indicates that the Forest Service terminated Mr. Krone on June 25, 1983, and the Bureau of Alcohol, Tobacco, and Firearms picked him up on June 26, 1983. Thus, there was no break in service.

Following completion of his travel to Long Beach, Mr. Krone submitted a travel voucher claiming reimbursement of \$5,674.47. The claim includes transportation of household goods, ferry transportation and per diem for both himself and spouse, reimbursement of privately-owned vehicle mileage, miscellaneous expense allowance, and for a 30-day temporary quarters allowance.

The Forest Service has refused to pay any part of the claim based upon its policy not to pay any portion of transfer expenses when an employee transfers to another agency.

The matter has been submitted here on reclaim for the reason that Mr. Krone has asserted entitlement to reimbursement based on his good faith reliance upon his initial employment agreement dated October 24, 1980. The agreement provided for return travel and transportation to Springfield, Missouri, and provided that he remain in the employment of the government for a period of 24 months, which he has done.

The issue of travel and transportation expenses of employees upon return from posts of duty outside the continental United States is governed by 5 U.S.C. § 5722 (1982). Section 5722(a)(2) authorizes payment of such expenses "on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the United States." As used in the statute, the "continental United States" does not include Alaska.

The authorized certifying officer, National Finance Center, Department of Agriculture recognizes in his report that the position of the Forest Service is inconsistent with the decision of our Office in Milton G. Parsons, 58 Comp. Gen. 783 (1979). In Parsons, we held that when an employee completes his travel from a post of duty outside the continental United States to a new post of duty within the continental United States, prior to the date he was to report to duty at his new official duty station, it is proper for the losing agency to pay his return travel and transportation expenses not to exceed the constructive cost of travel and transportation to his original residence. We agree with the certifying officer that the position of the Forest Service is inconsistent, and that our decision in Parsons is controlling. See also 44 Comp. Gen. 767 (1965).

However, the extent of Mr. Krone's reimbursement is limited by the governing statute and implementing regulations. Section 5722 of Title 5, United States Code (1982), provides in part:

"(a) Under such regulations as the President may prescribe \* \* \* an agency may pay from its appropriations--

"(1) travel expenses of a new appointee and transportation expenses of his immediate family and his household goods and personal effects from the place of actual residence at the time of appointment to the place of employment outside the continental United States; and

"(2) these expenses on the return of an employee from his post of duty outside the continental United States to

the place of his actual residence at the time of assignment to duty outside the United States."

Thus, it should be recognized that an employee's travel expense reimbursement rights under these provisions are significantly different than those under 5 U.S.C. §§ 5724 and 5724a which provide for travel, transportation, and relocation expenses of transferred employees.

The regulations implementing the travel, transportation and relocation allowance provisions of Title 5, United States Code, are contained in the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR).

Paragraph 2-1.5g of the FTR governs an employee's travel reimbursement rights for overseas assignments and return. The FTR provides a summation of reimbursable expenses in subparagraph (2)(b) for new appointees traveling to positions outside the conterminous United States, and those employees in positions outside the conterminous United States returning to the United States. As that summation relates to the present case, clause (i) authorizes travel and per diem for the employee; clause (ii) authorizes travel for the employee's immediate family, but excludes per diem for the family members; clause (iii) authorizes mileage for privately-owned vehicle travel; clause (iv) authorizes transportation and temporary storage of household goods; and clause (vii) authorizes transportation of the employee's personal automobile. Subparagraph (2)(c) of the same paragraph summarizes those expenses which may not be reimbursed. They are:

"\* \* \* per diem for family, cost of househunting trip, subsistence while occupying temporary quarters, miscellaneous expense allowance, residence sale and purchase expenses and lease-breaking expenses \* \* \*."

Thus, the regulations provide for reimbursement of the expenses associated with the transportation of Mr. Krone's household goods; ferry transportation for both himself and his wife; privately-owned vehicle mileage; per diem for himself but not for his wife. The regulations make clear,

however, that Mr. Krone may not be reimbursed a miscellaneous expense allowance nor subsistence while occupying temporary quarters as Mr. Krone had claimed. As indicated above, the authorized allowances may only be paid to the extent that they do not exceed the constructive cost of Mr. Krone's return travel to Springfield, Missouri, in accordance with his initial employment agreement. See 44 Comp. Gen. at 768.

The certifying officer poses several additional questions related to the claim and to the extent that they are relevant in view of the above analysis are answered as follows:

1. The fact that the transfer is between locations within the United States, rather than between a foreign country and the United States, does not have a bearing on the allowances authorized. Both 5 U.S.C. § 5722 and its implementing regulations cited above apply to transfers from posts of duty outside the continental United States and are not limited to return from posts of duty in foreign countries. The provisions therefore apply to Mr. Krone's return from Alaska.
2. When the transfer is between agencies, an agreement as to the extent each agency will pay travel and relocation benefits is not a condition precedent to the employee's entitlement to his statutory benefits as described above. The losing agency is required to pay the costs equivalent to return rights to the extent agreed upon in any employment agreement between the agency and the employee such as existed between Mr. Krone and the Forest Service.
3. After noting that the entitlements for relocation expenses under 5 U.S.C. § 5724a are potentially considerably greater than those allowed under 5 U.S.C. § 5722, and that an employee

may qualify for the broader reimbursement under 5 U.S.C. § 5724a, if the transfer is found to be in the interest of the government rather than for the convenience of the employee, the certifying officer asks whether the losing agency must make such a determination. The initial determination as to whether the transfer is in the interest of the Government should be made by the gaining agency because it is the gaining agency that would generally have greater access to the kind of information upon which such a determination would have to be based, and it is the gaining agency which would be required to make the reimbursements under 5 U.S.C. § 5724a, which would necessarily flow from such a determination.

4. Even if the transfer is primarily for the benefit of the employee, the losing agency may still reimburse the employee pursuant to 5 U.S.C. § 5722 as an employee's return rights are predicated upon his employment agreement, and not upon the reasons for which he may subsequently decide to transfer or separate.

In accordance with the foregoing, Mr. Krone is entitled to his travel and transportation expenses from Alaska to Long Beach, California, not to exceed the constructive cost of such expenses to his place of actual residence at the time of his employment with the Forest Service in Alaska.

*Milton J. Fowler*  
for Comptroller General  
of the United States